

**REMARKS**

In the Office Action mailed August 8, 2006, the Examiner noted that claims 1-26 were pending, that claims 19-22, 24 and 26 have been withdrawn from consideration, allowed claim 17, objected to claim 8 and rejected claims 1-7, 9-16, 18, 23 and 25. Claims 1, 4, 6, 8, 9, 12, 13, 16, 18 and 25 have been amended, new claim 27 has been added and, thus, in view of the forgoing claims 1-7, 9-16, 18, 25 and 27 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and objections are traversed below.

Claim 23 has been amended to correct it's dependency, is now dependent on withdrawn claim 19 and is now also marked as withdrawn.

On page 4 of the Action, the Examiner expressed concern about the previously filed IDS and a new PTO-1449 form has been supplied for the copies of the material previously provided to the USPTO.

On page 4 the Examiner required a new declaration and one is provided herewith.

On page 4, the Examiner objected to the drawings and on page 6 to the specification. The specification has been amended in consideration of the Examiner's comments. Withdrawal of the objections is requested.

In the Office Action, on page 6, the Examiner objected to claims 4, 5, 7, 8 and 17. Claims 4, 8 and 17 have been amended in consideration of the Examiners comments. No comments as to any problem with claim 5 have been provided and clarification of any problem with claim 5 is requested. The antecedent for the term of concern in claim 7 is found in parent claim 6. Withdrawal of the objection is requested.

In the Office Action the Examiner rejected claims 9, 13 and 15 under 35 U.S.C. §112, paragraph 2 as indefinite. The claims, including claims not noted by the Examiner, have been amended in consideration of the Examiner's comments and it is submitted they satisfy the requirements of the statute. If additional concerns with the claims arise, the Examiner is invited to telephone to resolve the same. Suggestions by the Examiner are also welcome. Withdrawal of the rejection is requested.

In the Office Action the Examiner objected to claim 8 and indicated that this claim would be allowable if rewritten in independent form. This claim has been so rewritten and it is submitted that this claim has not been narrowed and has the same scope as prior to being made independent and is now allowable. Withdrawal of the objection is requested.

On page 8, the Examiner rejected claims 4, 5 and 25 as anticipated by Quartetti.

Claim 4 calls for a layer representation graphic with "layer names" with a "box shape" with the controls being "coincident" with the box shape. Claim 5 is dependent on claim 4.

The Quartetti representations do not have a box shape but rather an open ended shape. For this reason, Quartetti does not anticipate claim 4.

Coincident means "occupying the same space" (Merriam-Webster Online Dictionary copyright © 2005 by Merriam-Webster, Incorporated). The "elements" of Quartetti are adjacent to the layer representation rather occupying the same space. For this additional reason, Quartetti does not anticipate claim 4. Claim 25 is similar.

The Quartetti layers also do not have a layer name but rather a layer number identifier ("Layer 1"). The layer name of the present invention is a layer descriptive name that describes the graphic of the layer, such as "wheels". For this further reason, Quartetti does not anticipate claim 4. Claim 25 is similar.

The Examiner alleged that the solid triangle elements "▼" and eye icons are controls. Quartetti does not define what these elements are and the Examiner is assuming without basis to do so that these elements are controls. In particular the triangle elements do not appear to be controls but are rather appear to be some type of indicators "disclosure triangles" (see Quartetti, col. 4, line 59). The Examiner is requested to establish that the elements of Quartetti are controls or withdraw the allegation

For the above-discussed reasons, withdrawal of the rejection is requested.

On page 9 the Examiner rejected claims 1-3, 6, 7, 9-14, 16 and 18 as obvious over a combination of Quartetti and Benson.

With respect to claim 1, the Examiner acknowledges that Quartetti does not address pop-up menu controls and points to Benson for this teaching. However, it appears that the Benson teachings associate a dialog box with a screen menu bar and not with layer graphics not found in a menu bar. As discussed on pages 3 and 4 of the application the pop-up control is intimately associated with the layer representation and not with a menu bar. This association between the layer representation and the control is noted in the claim by, for example, a "control activatable for each layer, activatable from within the layer representation and that allows the layer to be edited". Claims 6 and 18 are similar.

For the above-discussed reasons, withdrawal of the rejection of claims 1, 6 and 18 is requested.

With respect to claim 6, the Examiner acknowledges that Quartetti does not address hand drawn layer names and points to Benson at col. 3, line 16. This section of Benson particularly states:

RAM 13 and ROM 14 hold user and system data and programs as is well known in the art. I/O adapter 15 connects storage devices, such as hard drive 150, to the computer system. Communications adaptor 16 couples the computer system to a local or wide-area network 160. User interface adapter 17 couples user input devices, such as keyboard 170 and pointing device 171, to the computer system. Pointing device 171 may be a mouse, track ball, stylus and pressure sensitive pad, or other device allowing a user to control a cursor. This discussion assumes that certain well known user interface commands, such as drag and drop, are implemented using pointing device 171.

(Benson, col. 3, lines 9-20)

As can be seen, Benson does not address hand drawing the layer names.

For the above-discussed reasons, withdrawal of the rejection of claim 6 is requested.

With respect to claims 2, 9, 11 and 18, the Examiner asserts that Benson teaches the use of a marking menu and the Examiner points to col. 3, line 16 (see the above text). Benson does not address the use of marking menus where selection is by making a stroke. The Examiner is invited to review the following texts for information concerning the characteristics of marking menus.

Kurtenbach, G. and Buxton, W. 1993. The limits of expert performance using hierachic marking menus. In Proceedings of the SIGCHI Conference on Human Factors in Computing Systems (Amsterdam, The Netherlands, April 24 - 29, 1993). CHI '93. ACM Press, New York, NY, 482-487.

Kurtenbach, G. and Buxton, W. 1994. User learning and performance with marking menus. In Conference Companion on Human Factors in Computing Systems (Boston, Massachusetts, United States, April 24 - 28, 1994). C. Plaisant, Ed. CHI '94. ACM Press, New York, NY, 218.

For the above-discussed reasons, withdrawal of the rejection of claims 2, 9 and 18 is requested.

With respect to claim 10 the Examiner asserts that Quartetti at col. 4, lines 42-52 teaches highlighting an active layer. This text of Quartetti particularly states:

When the user creates a new sublayer under a parent layer, the default color of the sublayer is the same as that of the parent layer. The user can change the sublayer color later. If the user drags and drops an existing layer to become a sublayer under a parent layer, the sublayer retains its original color. (The color of a layer is used to associate visually items selected in a drawing, for example, with their corresponding layer or layers. Thus, for example, an object may be

displayed with an orange bounding box after it is selected, to show that it is in the layer shown with an orange color in the layers palette.)  
(Quartetti, col. 4 lines 42-52)

As can be seen, this Quartetti discussion is not about highlighting an active layer representation but rather about coloring an object boundary with a color from the layer representation.

For the above-discussed reasons, withdrawal of the rejection of claim 10 is requested.

With respect to claim 16, the Examiner appears to be erroneously equating a marking menu gesture with a keystroke discussed in Quartetti. As can be seen from the two articles noted above, a keystroke and a gesture are very different.

For the above-discussed reason, withdrawal of the rejection of claim 16 is requested.

The Examiner rejected claim 15 over Quartetti, Benson and Mizobuchi. Mizobudhi adds nothing to Quartetti and Benson with respect to the above-identified features. Withdrawal of the rejection is requested.

The remainder of dependent claims not discussed above depend from the above-discussed independent claims and are patentable over the prior art for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the prior art. For example, claim 3 calls for a marking menu with certain selections. As the Quartetti and Benson do not discuss marking menus they cannot discuss their characteristics much less those of claim 3. The lack of a marking menu in Quartetti and Benson also applies to claims 9 and 11. As another example claim 7 emphasizes a drawing dialog box invoked by the control and allowing the user to input the layer names. The prior art does not teach or suggest such. It is submitted that the dependent claims are independently patentable over the prior art.

New claim 27 emphasizes the association between the layer representation and the control and a displayed content descriptive layer name. Nothing in the prior art teaches or suggests such. It is submitted that this new claim, which is different and not narrower than prior filed claims distinguishes over the prior art.

It is submitted that the claims satisfy the requirements of 35 U.S.C. 112. It is also submitted that claims 8 and 17 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

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If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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